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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 KEVIN M. BREIMON,

11 Petitioner,

12 v.

13 JEFFREY A. UTTECHT,

14 Respondent.

CASE NO. C12-5230 BHS-JRC

ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL

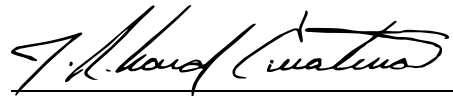
15 The District Court referred this petition for a writ of habeas corpus, filed pursuant to 28
16 U.S.C. § 2254, to United States Magistrate Judge J. Richard Creatura. The authority for the
17 referral is found in 28 U.S.C. § 636(b) (1) (A) and (B), and local Magistrate Judge Rules MJR3
18 and MJR4. Petitioner asks the Court to appoint counsel alleging his conviction was obtained
19 through the use of knowingly perjured testimony (ECF No. 7).

20 There is no right to have counsel appointed in cases brought pursuant to 28 U.S.C. § 2254
21 unless an evidentiary hearing is required. This is because the action is civil, not criminal, in
22 nature. Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1991) (*citing* McCleskey v. Zant, 499
23 U.S. 467, 495 (1991)); see Ortiz v. Stewart, 149 F.3d 923, 939 (9th Cir. 1998) (“There is simply
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1 no constitutional right to an attorney in a state post-conviction proceeding.”); see also Terrovona
2 v. Kincheloe, 852 F.2d 424, 429 (9th Cir. 1988); and Rule 8(c) of the Rules Governing Section
3 2254 Cases in the United States District Courts.

4 The Court has not ordered an evidentiary hearing in this case. The Court has directed that
5 respondent file an answer or otherwise respond to the petition (ECF No. 8). The Court denies
6 petitioner’s motion for appointment of counsel.

7 Dated this 18th day of April, 2012.

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10 J. Richard Creatura
United States Magistrate Judge
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